UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MERRIAM-WEBSTER, INCORPORATED,	:	
Plaintiff,	:	91 Civ. 1221 (LMM)
– v –	:	**INTERROGATORIES TO JURY**
RANDOM HOUSE, INC.,	:	
Defendant.	:	

INTERROGATORIES TO JURY

SECTION A.

A1. Is the phrase "Webster's Collegiate" a trademark of the Merriam-Webster company for dictionaries?

Yes ✓
No ____

A2. Has Random House shown that the phrase "Webster's Collegiate," as applied to dictionaries, is generic?

Yes ____
No ✓

IF YOUR ANSWER TO QUESTION A2 IS "YES," GO TO SECTION B, BELOW; IF YOUR ANSWER TO QUESTION A2 IS "NO," GO TO QUESTION A3.

A3. Is the phrase "Webster's Collegiate," as applied to dictionaries, descriptive?

Yes ✓
No ____

IF YOUR ANSWER TO QUESTION A3 IS "YES," GO TO QUESTION A4; IF YOUR ANSWER TO QUESTION A3 IS "NO," GO TO QUESTION A5, BELOW.

A4. Has the phrase "Webster's Collegiate," as applied to Merriam-Webster dictionaries, acquired secondary meaning?

Yes ✓
No ____

IF YOUR ANSWER TO QUESTION A4 IS "YES," GO TO QUESTION A5; IF YOUR ANSWER TO QUESTION A4 IS "NO," GO TO SECTION B, BELOW.

A5. Has Random House infringed Merriam-Webster's trademark "Webster's Collegiate" for dictionaries?

Yes ____
No ✓

A6. Is Merriam-Webster's trademark "Webster's Collegiate" for dictionaries strong and distinctive?

Yes ✓
No ____

IF YOUR ANSWER TO QUESTION A6 IS "YES," GO TO QUESTION A7; IF YOUR ANSWER TO QUESTION A6 IS "NO," GO TO SECTION B.

A7. Has Random House diluted the distinctiveness of Merriam-Webster's trademark "Webster's Collegiate" for dictionaries?

Yes ✓
No ____

SECTION B.

B1. Is Merriam-Webster's trade dress distinctive?

Yes ✓
No ____

B2. Has Merriam-Webster's trade dress acquired secondary meaning?

Yes ✓
No ____

IF YOUR ANSWER TO QUESTIONS B1 OR B2 IS "YES," GO TO QUESTION B3; IF YOUR ANSWER TO BOTH QUESTIONS B1 AND B2 IS "NO," GO TO SECTION C.

B3. Does Random House's trade dress infringe Merriam-Webster's trade dress?

Yes ✓
No ____

SECTION C.

C1. Has Random House infringed Merriam-Webster's registered trademark "Webster's Ninth New Collegiate Dictionary" in a circle?

Yes ____
No ✓

SECTION D.

D1. Is Merriam-Webster's trade dress strong and distinctive?

Yes ✓
No ____

IF YOUR ANSWER TO QUESTION D1 IS "YES," GO TO QUESTION D2; IF YOUR ANSWER TO QUESTION D1 IS "NO," GO TO SECTION E.

D2. Does Random House's trade dress dilute the distinctiveness of Merriam-Webster's trade dress?

Yes ✓
No _____

SECTION E.

E1. Is Merriam-Webster's registered trademark "Webster's Ninth New Collegiate Dictionary" in a circle, strong and distinctive?

Yes ✓
No _____

IF YOUR ANSWER TO QUESTION E1 IS "YES," GO TO QUESTION E2; IF YOUR ANSWER TO QUESTION E1 IS "NO," GO TO SECTION F.

E2. Has Random House diluted the distinctiveness of Merriam-Webster's registered trademark "Webster's Ninth New Collegiate Dictionary" in a circle?

Yes _____
No ✓

SECTION F.

IF, YOUR ANSWER TO QUESTION A5, B3 *OR* C1 IS YES, GO TO QUESTION F1; IF YOUR ANSWER TO EACH OF QUESTIONS A5, *AND* B2 AND B3, *AND* C1 IS NO, GO TO QUESTION F5.

F1. Was Random House's infringement intentional?

Yes ✓
No _____

IF YOUR ANSWER TO QUESTION F1 IS "YES," GO TO QUESTION F2; IF YOUR ANSWER TO QUESTION F1 IS "NO," GO TO THE INSTRUCTION IMMEDIATELY BEFORE QUESTION F5.

F2. What amount, if any, do you award Merriam-Webster?

Merriam-Webster's lost profits	$1,774,713
Random House's net profits	$ _____
Total	$1,774,713

IF, YOUR ANSWER TO QUESTION A5, *OR* BOTH B1 AND B3, IS YES, GO TO QUESTION F3; IF YOUR ANSWER TO QUESTIONS A5, *AND* B3 IS NO, DO NOT ANSWER QUESTION F3.

F3. Did Random House infringe Merriam-Webster's common law trademark and/or trade dress rights maliciously or in wanton disregard of the rights of Merriam-Webster so as to warrant an award of punitive damages?

Yes ✓
No _____

IF, YOUR ANSWER TO QUESTION A5, *OR* BOTH B2 AND B3, *OR* C1 IS YES, GO TO QUESTION F4; IF YOUR ANSWER TO EACH OF QUESTIONS A5, *AND* BOTH B2 AND B3, *AND* C1 IS NO, GO TO QUESTION F5.

F4. Did Random House infringe Merriam-Webster's federal trademark and/or trade dress rights maliciously or in wanton disregard of the rights of Merriam-Webster so as to warrant an award of attorneys fees?

Yes _____
No ✓

IF, YOUR ANSWER TO QUESTIONS A5, *OR* BOTH B2 AND B3, *OR* C1 IS YES, GO TO SECTION G; IF YOUR ANSWER TO EACH OF QUESTIONS A5, *AND* BOTH B2 AND B3, *AND* C1 IS NO, GO TO QUESTION F5.

F5. Were Merriam-Webster's claims for violation of Section 43(a) of the Lanham Act and for infringement of Merriam-Webster's federally registered trademark totally without merit and brought in bad faith so as to warrant an award of attorneys fees?

Yes _____
No _____

SECTION G

Please sign below and notify the Judge that you have completed all of the questions.

/s/ Deirdre Hundley
(Foreperson)

/s/ Leah Rose

/s/ Yvonne A. Henry

/s/Wilhilmena Perez

/s/George Brown

/s/ Salvage

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MERRIAM-WEBSTER, INCORPORATED,	:	91 Civ. 1221 (LMM)
Plaintiff,	:	
– v –	:	
RANDOM HOUSE, INC.	:	
Defendant.	:	

COUNTERCLAIM INTERROGATORIES TO JURY

Section A.

A1. Has Random House demonstrated that the word "Collegiate," as applied to dictionaries, is generic?

Yes ____
No ✓

IF YOUR ANSWER TO QUESTION A1 IS "YES," GO TO SECTION B, BELOW; IF YOUR ANSWER TO QUESTION A1 IS "NO," GO TO QUESTION A2.

A2. Is the word "Collegiate," as applied to dictionaries, descriptive?

Yes ✓
No ____

A3. Has the word "Collegiate," as applied to Merriam-Webster dictionaries, acquired secondary meaning?

Yes ✓
No ____

Section B

B1. Has Random House demonstrated that the word "Webster's," as applied to dictionaries, is generic?

Yes ✓
No _____

IF YOUR ANSWER TO QUESTION A1 IS "YES," GO TO SECTION C, BELOW; IF YOUR ANSWER TO QUESTION B1 IS "NO," GO TO QUESTION B2.

B2. Is the word "Webster's," as applied to dictionaries, descriptive?

Yes _____
No _____

B3. Has the word "Webster's," as applied to Merriam-Webster dictionaries, acquired secondary meaning?

Yes _____
No _____

SECTION C

Please sign below and notify the Judge that you have completed all of the questions.

/s/ Deirdre Hundley
(Foreperson)

/s/ Leah Rose

/s/ Yvonne A. Henry

/s/Wilhilmena Perez

/s/George Brown

/s/ Salvage

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MERRIAM-WEBSTER, INCORPORATED,	:	Civil Action No. 91 Civ. 1221 (LMM)
Plaintiff,	:	**INTERROGATORY TO JURY**
v.	:	
RANDOM HOUSE, INC.,	:	
Defendant.	:	

1. What amount of punitive damages, if any, do you award Merriam-Webster on its claims for common law trademark and/or common law trade dress infringement?

$500,000

Please sign below and notify the Judge that you have completed the above question.

/s/ Deirdre Hundley (Foreperson)

/s/ Leah Rose

/s/ Yvonne A. Henry

/s/Wilhilmena Perez

/s/George Brown

/s/ Salvage